

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**HILL COUNTRY UTILITIES,
L.L.C.,**
Plaintiff

v.

AMERIGAS PROPANE, L.P.,
Defendant

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No. A-20-CV-00959-LY

ORDER

Before the Court is Plaintiff's Motion to Compel Document Production, Dkt. 48, and all related responses and replies. The District Court referred the motions for disposition pursuant to Rule CV-72, Appendix C of the Local Rules of the United States District Court for the Western District of Texas, and 28 U.S.C. § 636(b)(1)(A). Having reviewed the motion, the undersigned enters the following Order.

Plaintiff, Hill Country Utilities, L.L.C., moves to compel discovery of the signed non-compete of Kimberly Sinclair, a former employee of Amerigas Propane, L.P. Ms. Sinclair agreed to produce her non-compete with Amerigas, but could only locate a draft, which she testified was nearly identical to the signed version. Hill Country intends to use the non-compete, which Sinclair admits she is violating, as a basis to impeach her testimony.

Amerigas objects to the discovery request, arguing that the parties entered into a prior agreement with regard to an earlier discovery dispute, in which Hill Country agreed to produce another employee's personnel file, in exchange for its

agreement to drop its request for other files, including Sinclair's. Amerigas further argues the requested discovery is not relevant to the suit, as Sinclair has already testified that she has not been threatened with suit.

The undersigned finds that the requested discovery is relevant to this suit as impeachment evidence. Moreover, Ms. Sinclair has already turned over a version of the document in issue, thereby waiving her privacy interests. With regard to the prior agreement between the parties, this document does not comprise Sinclair's entire employment file, but only one document that might be contained in that file.

Accordingly, Plaintiff's Motion to Compel Document Production, Dkt. 48, is GRANTED and Defendant Amerigas is ORDERED to produce Sinclair's signed non-compete within ten days of the date of this Order.

SIGNED June 28, 2022.



DUSTIN M. HOWELL
UNITED STATES MAGISTRATGE JUDGE